

Guivan P. Legal regulation of statute of limitations on individual requirements

Redemption of claims after a long period of non-realization is expedient from the point of view of the logic of building property relations. However, the law regulates only general situations in their legal mediation. It does not always regulate in detail all specific legal relations arising in society in the exercise of the protective right of the carrier of the violated material right to his judicial protection, through the use of state coercion. Therefore, the redemption of individual claims is regulated at the level of exceptions to the general rules established by law, established judicial practice, which, in turn, are based on doctrinal developments carried out by scientists in this field. The study of these relevant issues is devoted to this work.

The beginning of the statute of limitations is related to the moment of the offense. According to Ukrainian legislation, there are moments when the right of a person has been violated, and when the bearer of a subjective right has learned about it. Therefore, the establishment of the initial period of limitation is essential in the consideration of cases by jurisdictional bodies. The paper analyzes the typical errors of the court when calculating the limitation of actions, when it starts from a certain legal fact, which in its essence does not give rise to the right to claim, since it does not violate a subjective right. Under such circumstances, an unjustified omission of an authorized time set by a statutory period for filing a claim may occur, which, of course, deprives him of the possibility of enforcing his protective right in court.

Issues concerning the grounds and procedure for repaying the lender's claims for additional obligations are investigated. For this, a doctrinal interpretation of the essence of the phenomenon of additional requirements has been made. It has been established that regressive claims cannot be qualified as additional, it is an independent right of a person who arises from the duty performed by her, the very appearance of which was caused by inappropriate actions of another subject. In view of the above, a fairly broad judicial discretion in determining certain claims as additional and applying to them the consequences established by Art. 266 GKU, should be considered wrong.

For legitimate reasons, the limitation of actions passed must be restored by the law enforcement body. The work clarified the issue of restoring the statute of limitations on additional requirements in the case of restoring limitation on the basic requirements. Restoration of prescription on additional claims does not occur automatically after the restoration of the prescriptive period of time on the basic requirement, but only after the court has taken an appropriate decision regarding this particular period of prescription. If an important circumstance influenced in general the possibility of the creditor to go to court, then it is quite true that the restoration of the statute of limitations on basic requirements means the same consequences for additional ones.

Separately analyzed issues on the regulation of repayment of general requirements. They arise from obligations in which several persons act on the side of the debtor. Such obligations may be partial or joint. The legal nature and features of mediation of each of the specified types of relations are studied. The problems of termination of limitation in the presence of specific circumstances of an objective and subjective nature are considered.

Key words: cessation of limitation, additional requirements, joint requirements.